THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.16459 OF 2007

DATED 07th AUGUST, 2007

BETWEEN:

Mettu Bal Reddy and others

… Petitioners

AND

The Joint Collector-II, Ranga Reddy District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.16459 OF 2007

ORDER:

The petitioners' case is as follows. The land admeasuring Ac.7.21 guntas in survey Nos.155, 160, 161, 162 and 183 situated at Karmanghat Village of Saroornagar Mandal in Ranga Reddy District is Mafi inam land standing in the name of Pedda Ramaiah. One Malla Reddy and others filed an application for grant of Occupancy Rights Certificate (ORC) under the provisions of A.P. (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) in respect of land before second respondent. After conducting enquiry, ORC was granted on 29.05.1993. The legal representatives of Pedda Ramaiah also filed applications for ORC, which were accordingly granted. Sri Karmanghat Hanuman Devasthanam – sixth respondent herein; filed an appeal under Section 24 of the Act before Joint Collector, who remitted the matter to original authority. After remand, second respondent passed orders on 11.11.2003 confirming ORC granted earlier on 29.05.2003. This was again carried in appeal before first respondent by sixth respondent. By impugned order, dated 28.04.2006 in case No.F1/9053/2003, first respondent allowed the appeal and set aside the ORC granted by second respondent in favour of petitioners. Be it noted, ORC was set aside mainly on the ground that the subject land belongs to sixth respondent temple and therefore, grant of ORC is prohibited under the provisos to Section 4(1) of the Act.

Learned counsel for petitioners submits that the appeal filed by sixth respondent is time barred, and therefore, exercise of appellate jurisdiction by first respondent is improper. He also contends that sixth respondent relied on the order passed by fifth respondent in O.A.No.13 of 1983 under Section 75 of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1966 (hereafter called, 1966 Act), but the copy of the same was not produced and therefore, it was incorrect to say that land belongs to sixth respondent temple attracting proviso to Section 4(1) of the Act.

A perusal of appellate order impugned in the writ petition would show that sixth respondent produced the order passed by Assistant Commissioner of Endowments, dated 17.10.1978 under Section 38 of 1966 Act wherein the subject property was shown as belonging to sixth respondent. Therefore, the conclusion drawn by first respondent that the temple land is claimed by petitioners and second respondent issued ORC ignoring the proviso to Section 4(1) of the Act is

unassailable. When once the property/properties are registered as temple properties, if any person questions the same, the remedy of such person is to approach the concerned authority under A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 that such property is not a temple property or endowment property. In the absence of such declaration by concerned authority, the registration under Section 38 of 1966 Act is a conclusive proof that the property is a temple property. In that view of the matter, the grant of ORC in favour of petitioners by second respondent is certainly illegal and first respondent was right in setting aside the same.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

07.08.2007.
pln